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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/225,245 01/04/99 TOMOE

N 1137-761

WM02/1106

EXAMINER

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VO, N

ART UNIT

PAPER NUMBER

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DATE MAILED:

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 11

Application Number: 09/225,245

Filing Date: January 04, 1999

Appellant(s): TOMOE, NAOHITO

Vincent M. DeLuca
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed 10/16/2001.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-2, 12-13 stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,603,093 YOSHIMI ET AL. 02-1997

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-2, 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimi (5,603,093). This rejection is set forth in prior Office Action, Paper No. 5, mailed on 03/14/2001, pages 2-3, paragraph No. 3.

(11) Response to Argument

Appellant argues that the examiner cannot rely on the conventional system disclosed at column 1 lines 60-67 and column 2 lines 1-12 of Yoshimi, because Yoshimi teaches away from the conventional system. The examiner, however, disagrees. The examiner takes position that column 1 lines 60-67 and column 2 lines 1-12 of Yoshimi is used **as an evidence that there exists a conventional system which stops transmission of radio signal for the purpose of detecting an interference signal** (see "it is general practice in the prior art..." at column 2 lines 1-3). **It is used to substitute for any publication that discloses the above conventional system.** In his rejection, the examiner never relies on Yoshimi's own invention.

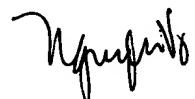
Appellant further argues that claim 1 does recite detecting interference waves on the downlink channel from the base station to the mobile station, because the claim sets forth controlling means for causing the transmitting means to stop transmitting the radio signal and to enable the receiving means to receive the interference wave signal. The examiner, however, disagrees. Claim 1 only recites detecting interference wave signal, **not interference wave signal on downlink channel from the base station to the mobile station.** The same discussion is applied to claims 2, 12-13. However, *for the sake of argument*, even if claims 1-2, 12-13 recite the claimed limitation of detecting interference waves on the downlink channel from the base station to the mobile station

as alleged by appellant, this limitation is disclosed by Yoshimi, column 1 lines 60-67 and column 2 lines 1-12, which teaches detecting interference wave transmitted on downlink channel from other base stations to the mobile station.

For the above reasons, it is believed that the rejections should be sustained.

Appeal Conference was conducted on 11/01/2001 with examiners Vivian Chang and Doris To.

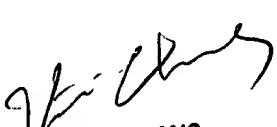
Respectfully submitted,



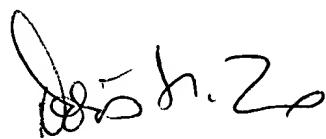
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